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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/678,011 | 10/02/2003 | Bret A. Ferree | BAF-19202/29 | 9243 |
| 25006 | 7590 | 02/22/2006 | EXAMINER | |
| GIFFORD, KRASS, GROH, SPRINKLE & CITKOWSKI, P.C PO BOX 7021 TROY, MI 48007-7021 | | | CROWDER, CHUN | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1644 | |

DATE MAILED: 02/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/678,011

Applicant(s)

FERREE, BRET A.

Examiner

Chun Crowder

Art Unit

1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-26 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

Species Election

1. Claims 1-26 are pending.
2. This application contains claims directed to the following patentably distinct species of the claimed inventions:

Applicant is required to elect a method of controlling adhesions by providing one specific set of human recombinant phage antibodies (e.g. antibody to TGF- β 1 as recited in claim 3) to one specific set of growth factors, or mannose-6-phosphate, or transglutaminase inhibitors (see claim 3).

It is not clear whether claim 3 is drawn to mannose-6-phosphate and transglutaminase inhibitors or anti-mannose-6-phosphate antibody and anti-transglutaminase inhibitors antibody. It is further noted that claim 3 lacks proper antecedent basis for the claimed subject matter "mannose-6-phosphate, and transglutaminase inhibitors". Appropriate correction is required.

Applicant is required to elect a species from above **AND** to further elect a species from the following:

- A) not including the steps of adding growth factors, other medications and therapeutic substances,
- B) including the steps of adding growth factors, **OR**
- C) including adding other medications or therapeutic substances.

If applicant elects (C), then applicant is required to elect one specific medication or therapeutic substance (e.g. a protease inhibitor as recited in claim 22 or an agent disclosed on page 5 of the instant specification).

Should applicant acknowledge that these species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious to one another or clearly admit on the record that this is the case.

These species are patentably distinct because their structures, physiochemical properties and/or mode of action are different, and they do not share a common structure that is disclosed to be essential for common utility. Further, the examination of these species would require different searches in the scientific literatures; as such it would be burdensome to search these species together.

Applicant is required under 35 USC 121 to elect a single disclosed species to which the claims would be restricted if no generic claim is finally held to be allowable.

3. Applicant is advised that a response to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. M.P.E.P. § 809.02(a).

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Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. § 103 of the other invention.

4. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chun Crowder whose telephone number is (571) 272-8142. The examiner can normally be reached Monday through Friday from 8:30 am to 5:00 pm. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (571) 272-0841. The fax number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chun Crowder, Ph.D.
Patent Examiner
February 9, 2006

Phillip Gandel
PHILLIP GANDEL, PH.D. JD
PRIMARY EXAMINER
TELE 272-8142
2/15/06